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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/563,086	12/30/2005	Satoshi Tamano	1141/75586	8130
23432 7590 09/01/2009 COOPER & DUNHAM, LLP 30 Rockefeller Plaza 20th Floor NEW YORK, NY 10112			EXAMINER BOR, HELENE CATHERINE	
			ART UNIT 3768	PAPER NUMBER
			MAIL DATE 09/01/2009	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No. 10/563,086	Applicant(s) TAMANO ET AL.
Examiner HELENE BOR	Art Unit 3768

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 10 August 2009 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☒ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 1,2,6-10,12 and 16.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

/Eric F Winakur/
Primary Examiner, Art Unit 3768

Continuation of 11, does NOT place the application in condition for allowance because: The Applicant submitted amendments to overcome pending USC 35 § 112 second paragraph rejections. In case of an Appeal the amendments will be entered in order to simplify the issues for appeal. The Applicant submitted arguments that to the Applicant's understanding that Figure 9, Element 17 of Gondo represented the ultrasonic wave transmission and reception channels. The Applicant submitted the argument that Gondo does not disclose or suggest that the connection change over switch is constituted in such a manner that each of the third predetermined number of the ultrasonic wave transmission and reception channels is connectable with the first predetermined number of the vibrator elements at the second predetermined number of channel intervals. The Examiner respectfully disagrees. The Examiner understands according to the claim language that the first predetermined number is the total number of the vibrating elements in the array. Gondo for example uses 64 vibrating elements as an example (Col. 9, Line 45-46). Further the claims state that there is a second predetermined number of elements that consist of a subset of the first predetermined number of the total of elements and that the second predetermined number is equal to the third. Gondo teaches that, in the case of performing a synthetic aperture method, only one fourth of the vibrating elements are used (Col. 11, Line 3-37). The one fourth of the vibrating elements the Examiner is interpreting to be the second number of elements and that the one fourth is connected to an equal number or the third predetermined number of ultrasonic transmission and reception channels.(Col. 11, Line 30-32).

The Examiner recognizes the differences between the prior art of the rejection and the invention of the Applicant as described in the Specification. However, the Examiner contends that such differences are not reflected in the claims as presented especially in term of the change over switch and the elements for controlling activation of the switch. While the Specification of the Applicant explains the nature of the change over switch (as shown in Figure 4 of the Applicant's disclosure), the claims can be interpreted as the change over switch as having a much more simplistic operation as in a one-to-one relationship as disclosed by Gondo. The Examiner deems the rejection to be proper and is hereby maintained.